

April 2, 2003 BZA



REQUEST ANALYSIS  
AND  
RECOMMENDATION

03AN0185

Jack R. Wilson, III

Bermuda Magisterial District  
660 Enon Church Road

- REQUESTS:
- I. A 38.53 foot Variance to the forty (40) foot east side yard setback requirement for an existing dwelling.
  - II. A 29.66 foot Variance to the forty (40) foot west side yard setback requirement for an existing dwelling.
  - III. A 28.7 foot Variance to the fifty (50) foot rear yard setback requirement for an existing dwelling.
  - IV. A 39.32 foot Variance to the forty (40) foot west side yard setback requirement for an existing porch.
  - V. A thirty-five (35) foot Variance to the forty (40) foot rear yard setback requirement for an existing porch and stairs.

RECOMMENDATION

Recommend approval of Variances I, II, III and IV for the following reasons:

- A. The granting of these Variances should not create any adverse impact on the subject property or the area in general.
- B. Variances will not impair the character of this area.

## CONDITION

These Variances shall be for the proposed existing structure as depicted on the plat attached to staff's report.

Recommend denial of Variance V for the following reasons:

- A. Staff finds there are no extraordinary circumstances or conditions applying to this property which do not apply generally to all other properties in the immediate area.
- B. The Variance is not in accord with the spirit and intent of the Zoning Ordinance.

## GENERAL INFORMATION

### Location:

Property is known as 660 Enon Church Road. Tax ID 819-642-0763 (Sheet 35).

### Existing Zoning:

A

### Size:

5.1 acres

### Existing Land Use:

Residential

### Adjacent Zoning and Land Use:

North - A, R-9 and R-12; Residential and vacant  
South - A; Residential and vacant, Appomattox River  
East - A; Residential and vacant  
West - A; Residential and vacant

### Utilities:

Private well and septic system

General Plan:

(Consolidated Eastern Area Plan)

Residential  
(1.5 units per acre or less)

DISCUSSION

The applicant has indicated the existing dwelling is located 1.47 feet from the east side yard property line. The Zoning Ordinance requires a forty (40) foot side yard setback. Therefore, the applicant requests a 38.53 foot Variance (see attached survey plat). The applicant has indicated the dwelling is located 10.34 feet from the west side yard property line. The Zoning Ordinance requires a forty (40) foot side yard setback. Therefore, the applicant requests a 29.66 foot Variance (see attached survey plat). The applicant has indicated the dwelling is located 21.3 feet from the rear yard property line. The Zoning Ordinance requires a fifty (50) foot rear yard setback. Therefore, the applicant requests a 28.7 foot Variance (see attached survey plat). The applicant has indicated the existing porch is 0.68 feet from the rear property line. The Zoning Ordinance requires a forty (40) foot rear yard setback. Therefore, the applicant requests a 39.32 foot Variance (see attached survey plat). The applicant also has indicated the second existing porch and stairs is located five (5) feet from the rear yard property line. The Zoning Ordinance requires a forty (40) foot rear yard setback. Therefore, the applicant requests a thirty-five (35) foot Variance (see attached survey plat).

The applicant provides the following justification in support of this request:

Ms. Donna Howlett, the Property owner, seeks a Variance from the existing rear yard setback requirements in the Agricultural (A) district, set forth in Sec. 19-128 (e) of the Zoning Ordinance, for an existing dwelling and for the attached porch which is open on three (3) sides. She seeks to make improvements to the Property and intends initially to use the dwelling for a weekend retreat since it lies adjacent to the Appomattox River, with water access for boating and recreational purposes.

The dwelling is located at the end of a private road (Perch Point Road) connecting to Enon Church Road. There are several other single family homes in this vicinity, located along the Appomattox riverbank, several of which also have been granted Variances in the past.

Although the dwelling has been in place since at least 1950, Ms. Howlett learned of its non-conformance with current zoning regulations only as a result of the denial of a building permit by the County. This denial, with the explanation is contained in a letter to Ms. Howlett from Chesterfield County dated February 22, 2001. The letter was received approximately four (4) months after Ms. Howlett recorded the deed for the Property on October 5, 2000 (Deed Book 3922, Pages 362, 363, 364 and 365).

At this time, Ms. Howlett is seeking to bring the Property into conformance with Zoning Ordinance regulations through the approval of a Variance for the rear yard setback. The unusual configuration of the rear lot line dictates that Ms. Howlett seek a Variance of fifty (50) feet from the required fifty (50) foot rear yard setback. County staff has informed that a

forty (40) foot Variance for the porch is necessary as well; the porch requires a forty (40) foot setback from the rear property line.

As noted, the dwelling has existed at this location for over fifty (50) years. The dwelling was purchased and recorded on a number of occasions prior to being owned by Ms. Howlett (i.e., in 1950, in 1954, in 1976, in 1997 and in 1998). The County has collected residential property taxes on the land and improvements continuously over the years.

Given that the Property will continue to be used in the same manner as it has over the past fifty (50)+ years, granting of the requested Variance will have no additional impacts on adjacent property, traffic or schools. The means of access, as described in #5 above, is via a private road connecting to Enon Church Road (State Route 746). Ms. Howlett intends to connect the dwelling to public water which is available at this location, and to construct a septic field in accord with County regulations. A perk test has been conducted and found that soils are suitable for a septic system.

The parcel was created prior to 1950 and additional property was combined to the subject property in 1954 and 1976. The original property and the additions did not legally qualify the property as a buildable parcel. Ms. Donna Howlett, the current property owner, purchased the property in 2000 in good faith not realizing the parcel was illegally created. The dwelling on the subject property was constructed in the 1950's. Ms. Howlett made improvements to the dwelling after purchasing it. When Ms. Howlett applied for a building permit to construct a new deck and stairs, she was advised that the parcel was created illegally.

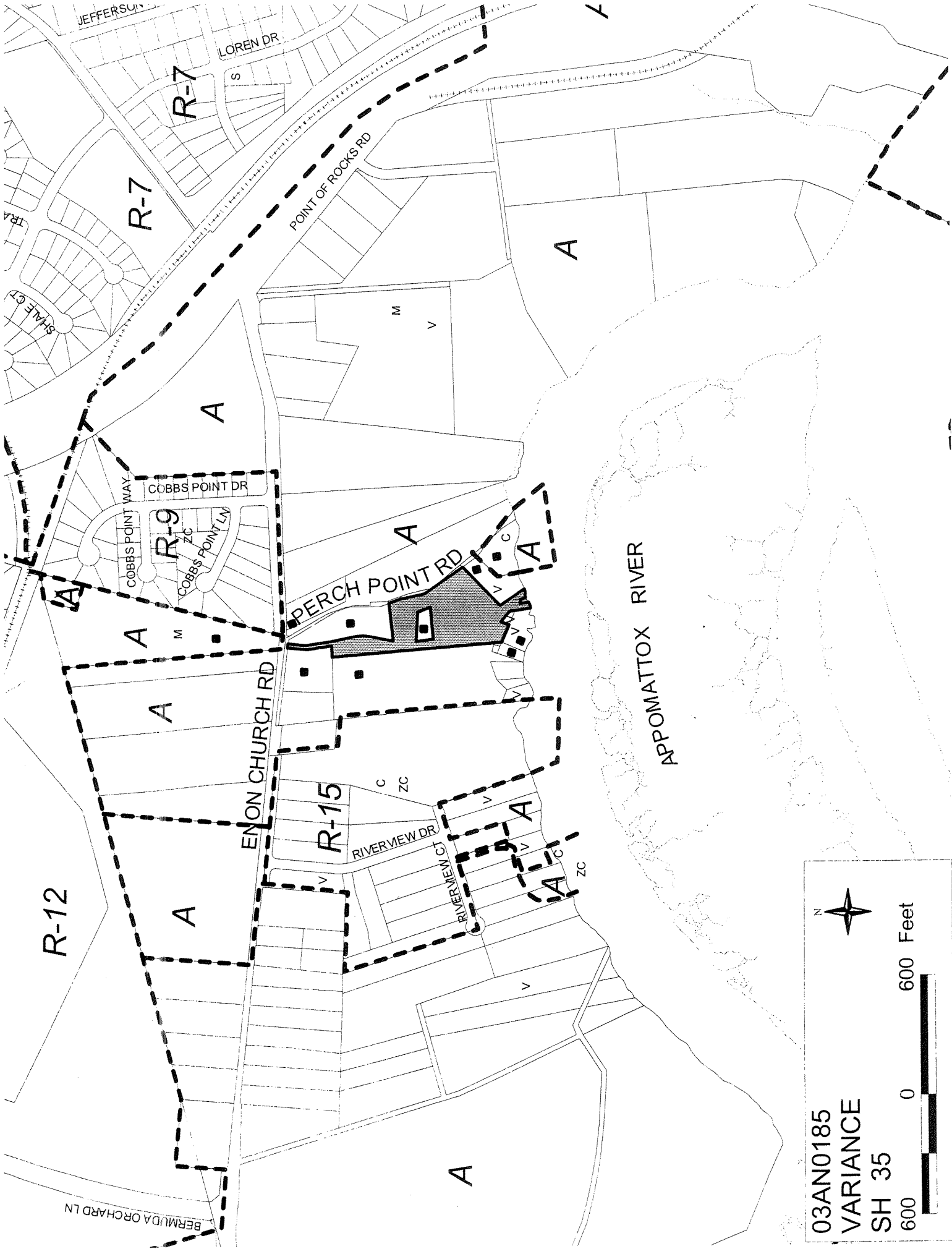
Staff believes that the requests for the existing dwelling will not reduce or impair the value of the dwellings or property in the area. Staff also notes the dwelling has been on the site for over fifty (50) years. Therefore, staff recommends approval of these requests (Variances I, II, III, IV) subject to the aforementioned Condition.

However, staff cannot support Variance V for the existing deck and stairs which were built after the building permit was denied. Staff finds no conditions upon which this request is based which are unique to the property and do not apply generally to other properties in the area.

However, if the Board sees fit to approve this request, staff recommends that it be subject to the following Condition as well as the aforementioned Condition:

#### CONDITION

This Variance shall be for the proposed existing porch and stairs as depicted on the plat attached to staff's report.

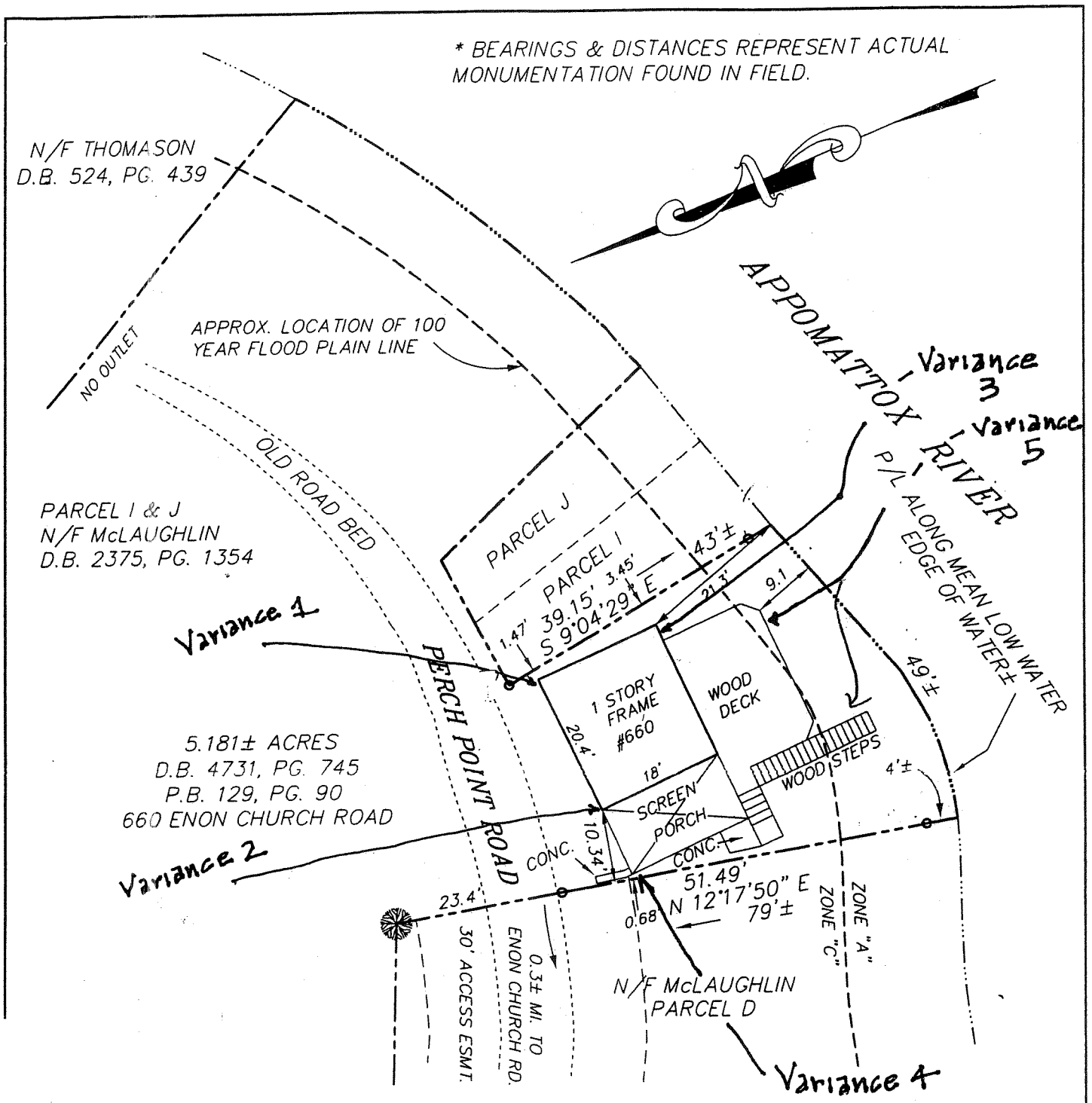


03AN0185  
VARIANCE  
SH 35

600 0 600 Feet

N

# Attachment 1



03ANO185-1